## REMARKS

Applicant respectfully requests entry of the foregoing amendments and reconsideration of the application in view of the amendment above and the remarks below. Claim 15 has been amended to correct a typographical error. Claims 1-26 are currently pending in the application, of which claims 1, 10, 16, 25, and 26 are independent.

Applicant notes that the foregoing amendment to claim 15 has been made to correct a typographical error and not for reasons related to patentability. No new matter has been introduced by way of the foregoing amendment. Additionally, Applicant submits that, because the amendment to claim 15 was made to correct an obvious typographical error, the amendment should not require a new search.

## Examiner Interview

Applicant gratefully acknowledges the courtesies extended to the undersigned by the Examiner during an interview conducted on April 6, 2005. During the interview, the undersigned pointed out various distinctions between the independent claims and the references of record, which are outlined in detail below.

## Claims 1-10 and 12-26 are patentable over *Shkedy* and *Boe*

Claims 1-10 and 12-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,260,024 to Shkedy (hereinafter "*Shkedy*") in view of U.S. Patent No. 6,236,975 to Boe (hereinafter "*Boe*"). Applicant respectfully traverses this rejection for the reasons set forth below.

### *Independent Claim 1*

Independent claim 1 recites a processor-readable medium comprising code representing instructions to cause a processor to: receive transaction information related to a transaction, the transaction information including consumer information and merchant information; compare the consumer information with predetermined consumer information; compare the merchant information with predetermined merchant information; and ***determine whether to invite the***

*consumer to complete a survey related to the transaction based at least partially on the comparison of the consumer information and the comparison of the merchant information.*

The Examiner admits that *"Shkedy* fails to disclose [code representing instructions to cause a processor to] determine whether to invite the consumer to complete a survey related to the transaction/monetary transaction based at least partially on the comparison of the consumer information and the comparison of the merchant information." (Office Action at 4, italics added.)

The Examiner relies on *Boe* as allegedly disclosing the subject matter of claim 1 admittedly missing from *Shkedy*. Specifically, the Examiner has pointed to the selection found in col. 5, lines 9-22 as allegedly disclosing the claimed code representing instructions to cause a processor to determine whether to invite the consumer to complete a survey related to the transaction/monetary transaction based at least partially on the comparison of the consumer information and the comparison of the merchant information.

A review of *Boe* (including the selection cited by the Examiner), however, reveals that it does not disclose or suggest the subject matter of claim 1 admittedly missing from *Shkedy*. Instead, the selection of *Boe* cited by the Examiner merely discloses a system that "stores data ... regarding which survey question was last answered by the customer [and, when] that customer later returns to complete more of the survey, [the system] may then present the subsequent question without requiring the customer to start again from the first question." (Col. 5, lines 9-22.) In other words, *Boe* simply records the place of a customer in a survey and presents the next sequential question to the customer upon the customer's return to the survey.

Thus, unlike claim 1, *Boe* is not concerned with any *determination of whether to invite a consumer to complete a survey*, but instead relates to helping a customer who returns (without requiring any invitation) to continue a survey that the customer had previously started.

Moreover, even if *Boe* could somehow be construed as determining whether to invite a consumer to complete a survey (which Applicant believes it cannot), *Boe* does not disclose or suggest making any determinations about whether to invite a consumer to complete a survey *related to a transaction*. Additionally there is no determination in *Boe* of whether to invite a consumer to complete a survey based on any *comparison of consumer information* or any

*comparison of merchant information.* Indeed, it appears that the Examiner has not even addressed these recitations of claim 1.


*Independent Claim 10*

Independent claim 10 discloses a processor-readable medium comprising code representing instructions to cause a processor to: *invite consumers to participate in a survey program*; receive consumer information from participating consumers; develop historical consumer information for each of the participating consumers; receive transaction information relating to a transaction, the transaction information including information relating to the consumer in the transaction; determine, using the information relating to the consumer in the transaction, whether the consumer in the transaction is a participating consumer; and *determine, using the historical consumer information, whether to collect survey information from the consumer in the transaction.*

The Examiner has admitted that "*Shkedy* fails to disclose inviting consumers to participate in a survey program." (Office Action at 8, italics added.) Additionally, the Examiner has admitted that "*Shkedy* fails to disclose ... determining ... whether to collect survey information from the consumer in the transaction." (Office Action at 8, italics added.)

The Examiner relies on *Boe* as allegedly disclosing the subject matter of claim 10 admittedly missing from *Shkedy*. For example, the Examiner has pointed to the selection found in col. 6, lines 65-67 and the selection found in col. 9, lines 12-15 as allegedly disclosing the claimed code representing instructions to invite consumers to participate in a survey program. However, the first cited selection merely discloses that "advertisements and/or links for those products or services to [be] displayed for the customer" can be selected from a matching database. (Col. 6, lines 65-67.) The fact that advertisements and/or links are selected to be displayed does not somehow disclose or suggest code representing instructions to cause a processor to *invite consumers to participate in a survey program.*

Moreover, the second selection cited by the Examiner merely discloses that when the "customer accesses [the] survey system ... [the] survey system ... displays a welcome message." (Col. 9, lines 12-15.) The fact that a welcome message is displayed to a customer does not

somehow disclose or suggest code representing instructions to cause a processor to *invite consumers to participate in a survey program*.

Additionally, the Examiner has relied on the selection found in col. 5, lines 9-22 as allegedly disclosing the claimed code representing instructions to cause a processor to *determine, using the historical consumer information, whether to collect survey information from the consumer in the transaction*. As described above in connection with claim 1, the selection cited by the Examiner merely discloses recording the place of a customer in a survey and presenting the next sequential question to the customer upon the customer's return to the survey. (*See* col. 5, lines 9-22.) The fact that a customer can be presented with the next sequential question in a survey does not somehow disclose or suggest code representing instructions to cause a processor to *determine whether to collect survey information from the consumer in the transaction*.

Moreover, Applicant notes that the claimed determination is made *using historical consumer information*. The Examiner has asserted that the credit history information disclosed in *Shkedy* is equivalent to this historical consumer information. However, even if the credit history of *Shkedy* can be construed as historical consumer information as the Examiner asserts, neither *Shkedy* nor *Boe* disclose or suggest (and the Examiner does not argue that they do disclose or suggest) *using such historical consumer information* to determine whether to collect survey information from a consumer in a transaction.

### Independent Claim 16

Independent claim 16 recites a system for collecting survey information relative to a transaction between a consumer and a merchant. The system includes a monitoring interface configured to process transaction information from a transaction, the transaction information including a transaction record with information relating to a consumer to the transaction, the transaction record being in at least one of an electronic form and a digital form. The system also includes a processor configured to analyze the transaction record relative to stored consumer information. The processor is further configured to *determine whether to solicit survey information from the consumer to the transaction based at least partially on the transaction*

*record and the stored consumer information*. The system also includes a participant interface configured to enable the consumer to the transaction to provide survey information.

The Examiner admits that "*Shkedy* fails to disclose ... [a] processor ... configured to determine whether to solicit survey information from the consumer to the transaction based at least partially on the transaction record and the stored consumer information." (Office Action at 12, italics added.)

The Examiner relies on *Boe* as allegedly disclosing the subject matter of claim 16 admittedly missing from *Shkedy*. Specifically, the Examiner has pointed to the selection found in col. 5, lines 9-22 as allegedly disclosing the claimed processor configured to determine whether to solicit survey information from the consumer to the transaction based at least partially on the transaction record and the stored consumer information.

A review of *Boe* (including the selection cited by the Examiner), however, reveals that it does not disclose or suggest the subject matter of claim 16 admittedly missing from *Shkedy*. Instead, as discussed above in connection with claim 1, the selection of *Boe* cited by the Examiner merely discloses recording the place of a customer in a survey and presenting the next sequential question to the customer upon the customer's return to the survey. There is no disclosure or suggestion in *Boe* of any component or operation configured to *determine whether to solicit survey information from a consumer*.

Moreover, *Boe* does not disclose or suggest a component or operation configured to determine whether to solicit survey information *based at least partially on a transaction record* (with information relating to a consumer transaction) *and stored consumer information*. In fact, the Examiner has not even addressed these recitations of claim 16.

### Independent Claims 25 and 26

Independent claims 25 and 26 contain language similar to the recitation of claim 1 not disclosed or suggested by the combination of *Shkedy* in view of *Boe*, as discussed above. Additionally, the Examiner has relied on the same rationale to reject claims 1, 25, and 26. Thus, although separate grounds of patentability may exist with respect to each of these claims, Applicant respectfully submits that they are patentable for at least similar reasons to those discussed above in connection with claim 1.

Accordingly, for at least any one of the reasons described above, Applicant respectfully requests that the Examiner withdraw the rejection of independent claims 1, 10, 16, 25, and 26. Additionally, for at least any one of the same reasons, Applicant respectfully requests that the Examiner withdraw the rejection of claims 2-9, 12-15, and 17-24, which depend from independent claims 1, 10, and 16, respectively, and are patentable for at least any one of the reasons discussed in connection therewith.

### Claim 11 is patentable over *Shkedy, Boe,* and *Kurland*

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shkedy* in view of *Boe,* and further in view of U.S. Patent No. 4,603,232 to Kurland et al. (hereinafter "*Kurland*"). Applicant respectfully traverses this rejection because *Kurland* fails to remedy the deficiencies of *Shkedy* and *Boe* described above. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claim 11 for at least any one of the reasons discussed above in connection with independent claim 10 from which it depends.

### Conclusion

All rejections having been addressed, Applicant respectfully submits that the present application is in condition for allowance, and earnestly solicits a Notice of Allowance, which is believed to be in order. Should the Examiner have any questions regarding this communication, or the application in general, she is invited to telephone the undersigned at 703-456-8108.
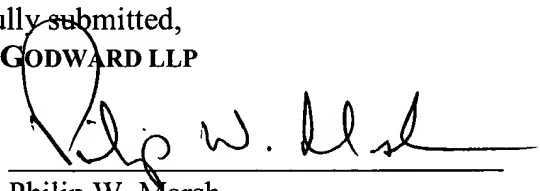
The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R.§§ 1.16, 1.17, and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-1283.

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Cooley Godward LLP
ATTN: Patent Group
One Freedom Square
Reston Town Center
11951 Freedom Drive
Reston, VA 20190-5656
Tel: (703) 456-8000
Fax: (703) 456-8100

Respectfully submitted,
**COOLEY GODWARD LLP**

By: _____
Philip W. Marsh
Reg. No. 46,061

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